

SENATE BILL No. 490

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-23-28; IC 5-10-8-6.7; IC 12-7-2; IC 12-12-1; IC 34-6-2-127; IC 34-30-4-2.

Synopsis: Commission for the blind. Creates the commission for the blind and visually impaired. Repeals provisions concerning rehabilitation services bureau programs concerning: (1) rehabilitation centers for blind and visually impaired individuals; and (2) blind vending services. Transfers responsibility for these programs to the commission.

Effective: July 1, 2002; July 1, 2003.

Merritt

January 14, 2002, read first time and referred to Committee on Rules and Legislative Procedure.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 490

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-23-28 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2002]:

4 **Chapter 28. Commission for the Blind and Visually Impaired**

5 **Sec. 1. As used in this chapter, "blind" refers to an individual**
6 **who has a central visual acuity of 20/200 or less in the individual's**
7 **better eye with the best correction or a field of vision that is not**
8 **greater than twenty (20) degrees at the widest diameter of the field**
9 **of vision.**

10 **Sec. 2. As used in this chapter, "commission" refers to the**
11 **commission for the blind and visually impaired established by**
12 **section 7 of this chapter.**

13 **Sec. 3. As used in this chapter, "custodial authority of a**
14 **building" means the person authorized to contract for the**
15 **provision of vending services in the building.**

16 **Sec. 4. As used in this chapter, "executive director" refers to the**
17 **executive director of the commission for the blind and visually**



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impaired appointed under section 9 of this chapter.

Sec. 5. As used in this chapter, "vending facility" means an automatic vending machine, a snack bar, and auxiliary equipment necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws.

Sec. 6. As used in this chapter, "visually impaired" refers to an individual who has a visual acuity between 20/60 and 20/200 in the individual's better eye with the best correction or a corresponding loss in visual field.

Sec. 7. (a) The commission for the blind and visually impaired is established to develop and provide services to maximize employment opportunities and to increase independence and self-sufficiency for individuals who are blind and visually impaired throughout Indiana.

(b) Programs, projects, and activities of the commission must be carried out in a manner consistent with the following principles:

- (1) Respect for individual dignity, personal responsibility, self-determination, and pursuit of a meaningful career based on informed choice.
- (2) Support for the involvement of an individual's representative if an individual requests, desires, or needs support.
- (3) Respect for individual privacy and equal access, including information in accessible formats.
- (4) Integration and full participation in society of an individual who is blind or visually impaired on equal terms with other individuals.

Sec. 8. (a) The commission consists of five (5) members:

- (1) appointed for a term of three (3) years by the governor in consultation with recognized consumer groups of blind individuals in Indiana;
- (2) qualified to serve based on knowledge and experience in rehabilitation and related services for the blind; and
- (3) at least three (3) of whom are blind or visually impaired.

A member of the commission may not be employed by the commission during the term of membership.

(b) The commission shall meet quarterly and at other times as the commission determines.

(c) The chairperson of the commission shall be elected annually by the members of the commission.



(d) Three (3) members constitute a quorum for conducting business.

(e) Members of the commission:

- (1) may not receive salary per diem; and
- (2) are entitled to per diem consistent with IC 4-10-11-2.1(a).

Sec. 9. (a) The commission shall appoint an executive director who meets the qualifications established by the commission, including:

- (1) appointing a person with knowledge and experience in rehabilitation and related services for the blind and visually impaired; and
- (2) giving preference to an individual who is blind or visually impaired.

(b) The executive director:

- (1) is the chief administrative officer of;
- (2) serves as secretary to; and
- (3) is a nonvoting, ex officio member of:

the commission.

(c) The executive director is appointed for an indefinite term. The executive director may be terminated for cause as determined by a majority of the members of the commission.

Sec. 10. The executive director shall employ field agents, teachers, and other personnel as state merit employees under IC 4-15-2. The salary and compensation of persons employed under this section shall be set under IC 4-13-2-14.6 and IC 4-15-2.

Sec. 11. The commission has the following powers and duties:

- (1) Develop and carry out a state plan for vocational rehabilitation services under section 101 of the Rehabilitation Act of 1973, as amended, for individuals who are blind.
 - (2) Provide independent living services under Title VII of the Rehabilitation Act of 1973, as amended, for blind and visually impaired individuals, including services for older individuals who are blind and visually impaired.
 - (3) Establish, equip, and maintain at least one (1) orientation and adjustment centers to provide prevocational and other training, including:
 - (A) instruction in Braille;
 - (B) use of the long white cane for independent travel;
 - (C) homemaking and home management skills; and
 - (D) communications skills, including the use of computer technology:
- to prepare blind and visually impaired individuals for

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eventual vocational training, job placement, and independence.

(4) Establish and carry out a small business enterprises program and serve as the state licensing agency for blind individuals under the federal Randolph-Sheppard Act (20 U.S.C. 107 et seq.) and sections 13 through 20 of this chapter.

(5) Establish and administer a statewide program to certify individuals who are qualified to teach Braille to blind or visually impaired individuals, including elementary and secondary school students, using performance criteria based on the national literary Braille competency examination administered by the Library of Congress.

(6) Purchase and distribute specialized equipment, devices, and technology, including low vision aids.

(7) Create and maintain an instructional media center for the production, purchase, distribution, reallocation, and warehousing of accessible materials for blind children and adults in addition to and in cooperation with other existing information sources.

(8) Provide technical assistance and training in cooperation with other agencies to assist the department of education and local education agencies to provide auxiliary aids and services to blind students and parents and teachers of blind students to comply with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.), as amended, and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), as amended.

(9) Designate a member of the commission to participate, as appropriate, on a board, a commission, or another body established in Indiana to coordinate and plan services for blind and visually impaired individuals.

(10) Conduct a review of consumer satisfaction with the programs of the commission and perform other functions of the statewide rehabilitation council specified in section 105(c) of the Rehabilitation Act of 1973 (29 U.S.C. 749d), as amended.

(11) Adopt rules under IC 4-22-2 to carry out the programs of the commission.

(12) Develop and administer programs to further the provision of services to the blind and visually impaired as determined by the commission to fall within the commission's scope of responsibility.

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(13) Apply for and receive money from a state or federal agency to support the programs of the commission and receive on behalf of the state gifts, donations, or bequests to be used to carry out the commission's duties under this chapter.

(14) Issue licenses to blind or visually impaired individuals to operate vending facilities under federal and state law.

(15) Establish and operate vending facilities for the placement of blind or visually impaired individuals in buildings owned or leased by the federal government.

(16) Establish and operate vending facilities in privately owned buildings.

Sec. 12. The commission may carry out the powers and duties enumerated in this chapter through:

(1) direct administration;

(2) a contract; or

(3) a cooperative agreement.

Sec. 13. Except as provided in section 15 of this chapter, the commission is given sole vending opportunities in buildings owned, leased in whole, or operated by the state or:

(1) a county;

(2) a township;

(3) a city; or

(4) a town;

in Indiana to provide blind and visually impaired individuals with remunerative employment and to enlarge the economic opportunities of blind and visually impaired individuals.

Sec. 14. (a) The commission shall establish vending facilities to sell newspapers, periodicals, confections, tobacco products, food, beverages, and other articles approved for sale by the commission and the custodial authority of the building.

(b) The location and type of vending facility established under subsection (a) must be determined by the commission in cooperation with the custodial authority of the building in which the vending facility will be operated.

Sec. 15. The commission shall relinquish the commission's exclusive right under section 13 of this chapter to operate vending services in a building if either of the following apply:

(1) A blind or visually impaired vendor is not available to provide vending services in the building.

(2) The custodial authority of the building shows to the satisfaction of the commission that good cause exists for not granting the commission the exclusive right to operate

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vending services in the building, and the custodial authority files with the commission a signed affidavit to that effect.

Sec. 16. If the commission relinquishes the commission's exclusive right to operate vending services under section 13 of this chapter, the custodial authority of the building may enter into a contract not to exceed two (2) years with a person that is not blind or visually impaired for vending services in the building.

Sec. 17. The custodial authority of a building shall notify the commission before entering into or renewing a contract to operate vending services in the building with a person other than the commission.

Sec. 18. The commission may not place at a new vending facility a blind or visually impaired vendor who is already operating a vending facility unless the placement of the vendor at the new vending facility would leave a vacant vending facility that could be:

- (1) immediately filled by another blind or visually impaired vendor;
- (2) relinquished to the custodial authority under section 15 of this chapter; or
- (3) closed due to insufficient income producing potential.

Sec. 19. The commission shall seek out vending opportunities for blind or visually impaired individuals in public and private buildings.

Sec. 20. Payment for training of vendors under this chapter may be made from state, local, or federal money.

Sec. 21. (a) Before December 1 of each year, the commission shall submit to the legislative services agency a report detailing the number of blind or visually impaired vendors placed by the commission in public and private buildings under this chapter.

(b) The commission shall publish an annual report including a list of accomplishments, findings, and recommendations for improvement based on the commission's performance during the year. The report must contain information needed to evaluate the progress of the commission in meeting the needs of blind and visually impaired individuals in Indiana.

(c) The legislative services agency shall provide copies of the reports submitted under this section to the chairperson of the:

- (1) health and provider services committee of the Indiana senate; and
- (2) public health committee of the Indiana house of representatives.

Sec. 22. A dispute arising from an action taken or a decision

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made by the commission must be addressed under IC 4-21.5.

SECTION 2. IC 5-10-8-6.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6.7. (a) As used in this section, "blind" has the meaning set forth in IC 4-23-28-1.

(b) As used in this section, "vending facility" has the meaning set forth in IC 4-23-28-5.

(c) As used in this section, "visually impaired" has the meaning set forth in IC 4-23-28-6.

(d) As used in this section, "state health plan" refers to a self-insurance program established under section 7(b) of this chapter or a contract with a prepaid health care delivery plan under section 7(c) of this chapter.

(e) A blind or visually impaired individual who operates a vending facility established under IC 4-23-28 may be covered under a state health plan if the individual:

- (1) is not more than sixty-four (64) years of age; and
- (2) pays one hundred percent (100%) of the premium charged for the coverage and any administrative costs associated with the coverage.

SECTION 3. IC 12-7-2-21, AS AMENDED BY P.L.272-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. "Blind" means the following:

(1) For purposes of the following statutes, the term refers to an individual who has vision in the better eye with correcting glasses of 20/200 or less, or a disqualifying visual field defect as determined upon examination by an ophthalmologist or optometrist who has been designated to make such examinations by the county office and approved by the division of family and children or by the division in the manner provided in any of the following statutes:

- (A) IC 12-10-6.
- (B) IC 12-10-12.
- (C) IC 12-13.
- (D) IC 12-14.
- (E) IC 12-15.
- (F) IC 12-17-1.
- (G) IC 12-17-2.
- (H) IC 12-17-3.
- (I) IC 12-17-9.
- (J) IC 12-17-10.
- (K) IC 12-17-11.



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(L) IC 12-19.

(2) For purposes of the following statutes, the term refers to an individual who has a central visual acuity of 20/200 or less in the individual's better eye with the best correction or a field of vision that is not greater than twenty (20) degrees at its widest diameter:

(A) IC 12-12-1.

(B) ~~IC 12-12-3.~~

~~(C) IC 12-12-5.~~

~~(D) IC 12-12-6.~~

SECTION 4. IC 12-7-2-52 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 52. "Custodial authority of a building", for purposes of ~~the following statutes, IC 12-12-6,~~ means the person authorized to contract for the provision of vending services in the building.

~~(1) IC 12-12-5.~~

~~(2) IC 12-12-6.~~

SECTION 5. IC 12-7-2-160, AS AMENDED BY P.L.272-1999, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 160. (a) "Rehabilitation", for purposes of the statutes listed in subsection (b), means a process of providing services to meet the current and future needs of persons with disabilities so that the individuals may prepare for and engage in gainful employment to the extent of their capabilities, as provided in 29 U.S.C. 720.

(b) This section applies to the following statutes:

(1) IC 12-8-1-11.

(2) IC 12-12-1.

~~(3) IC 12-12-3.~~

~~(4) (3) IC 12-12-6.~~

SECTION 6. IC 12-7-2-198 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 198. ~~(a)~~ "Visually impaired", for purposes of ~~the statutes listed in subsection (b),~~ **IC 12-12-1**, refers to an individual who has a visual acuity between 20/60 and 20/200 in the individual's better eye with the best correction or a corresponding loss in visual field.

~~(b) This section applies to the following statutes:~~

~~(1) IC 12-12-1.~~

~~(2) IC 12-12-3.~~

SECTION 7. IC 12-12-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The director shall organize the bureau in the manner necessary to carry out the bureau's duties. However, the bureau must include the following:

~~(1) The unit of services for the blind and visually impaired.~~

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1 ~~(2)~~ (1) The unit of vocational rehabilitation.

2 ~~(3)~~ (2) The unit of services for the deaf and hard of hearing.

3 SECTION 8. IC 12-12-1-5 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The bureau shall
5 provide job placement services, including supported employment (as
6 defined in 34 CFR 363.6), on a consistent statewide basis for qualified
7 ~~blind, visually impaired, and other~~ persons with disabilities.

8 (b) The bureau shall increase employment opportunities for persons
9 with disabilities by encouraging and authorizing direct job placements
10 into any job that is chosen by the vocational rehabilitation client,
11 including a job provided by any organization that has a contract with
12 the bureau to provide vocational rehabilitation services.

13 SECTION 9. IC 12-12-1-7 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The bureau may
15 conduct research and demonstration projects, including inquiries into
16 the causes of ~~blindness and other~~ disabilities and their prevention.

17 SECTION 10. IC 34-6-2-127 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 127. "Qualified
19 director", for purposes of IC 34-30-4, means any of the following
20 individuals:

21 (1) An individual who serves without compensation for personal
22 services as a member of a board or commission of the state or a
23 political subdivision for the purpose of setting policy, controlling,
24 or otherwise overseeing the activities or functional
25 responsibilities of that board or commission.

26 (2) An individual who serves without compensation for personal
27 services as a director or an officer for the purpose of setting
28 policy, controlling, or otherwise overseeing the activities or
29 functional responsibilities of a nonprofit corporation operating
30 under IC 12-29, except IC 12-29-3-6 ~~or an agency providing~~
31 ~~services under IC 12-12-3~~, or a nonprofit corporation that has one

32 (1) of the following purposes:

33 (A) Religion.

34 (B) Charity.

35 (C) Benevolence.

36 (D) Providing goods or services at no charge to the general
37 public.

38 (E) Education.

39 (F) Scientific activity.

40 (G) Developing or providing hospital services.

41 (H) Medical research.

42 (I) Developing or providing ambulance services or emergency

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1 medical treatment services.
 2 (3) An individual who serves without compensation for personal
 3 services as a director for the purpose of setting policy, controlling,
 4 or otherwise overseeing the activities or functional
 5 responsibilities of an organization that acts as an advocate for its
 6 members and that has as its members individuals or organizations
 7 that are:

8 (A) members of a particular trade or industry; or
 9 (B) members of the business community of a particular
 10 municipality or area of the state.

11 (4) An individual who serves without compensation for personal
 12 services as a director of a national, regional, or local fraternity or
 13 sorority that is connected with, and under the supervision of, a
 14 college, university, or other educational institution located within
 15 Indiana.

16 (5) An individual who serves the purpose of setting policy,
 17 controlling, or otherwise overseeing the activities or functional
 18 responsibilities of a homeowners association (as defined in
 19 section 58 of this chapter).

20 (6) An individual who serves without compensation for personal
 21 services as a director for the purpose of setting policy, controlling,
 22 or otherwise overseeing the activities or functional
 23 responsibilities of the Special Olympics or the Pan American
 24 Games.

25 "Compensation", for purposes of this section, has the meaning set forth
 26 in section 28(a) of this chapter.

27 SECTION 11. IC 34-30-4-2 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. Notwithstanding any
 29 other provision of or any other law, an individual who:

30 (1) serves without compensation as a volunteer director of
 31 ~~(A) a nonprofit corporation operating under IC 12-29-3-6; or~~
 32 ~~(B) an agency providing services under IC 12-12-3; and~~
 33 (2) exercises reasonable care in the performance of the duties of
 34 a director;

35 is immune from civil liability arising out of the performance of those
 36 duties.

37 SECTION 12. THE FOLLOWING ARE REPEALED [EFFECTIVE
 38 JULY 1, 2003]: IC 5-22-12; IC 12-7-2-161; IC 12-7-2-197; IC 12-12-3;
 39 IC 12-12-5.

40 SECTION 13. [EFFECTIVE UPON PASSAGE] (a) As used in this
 41 SECTION, "commission" refers to the commission for the blind
 42 and visually impaired established by IC 4-23-28-7, as added by this

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act.

(b) The governor shall appoint the members of the commission under IC 4-23-28-8, as added by this act, before July 1, 2002. Notwithstanding IC 4-23-28-8(a)(1), as added by this act, the initial terms of the members are as follows:

- (1) One (1) member for a term of one (1) year.
- (2) One (1) member for a term of two (2) years.
- (3) One (1) member for a term of three (3) years.
- (4) Two (2) members for terms of four (4) years.

(c) Notwithstanding IC 4-23-28, as added by this act, the blind and visually impaired unit of the rehabilitation services bureau established by IC 12-12-1-1 shall continue to administer programs and services for the blind and visually impaired through June 30, 2003.

(d) Appropriations, real and personal property, equipment, supplies, and funds owned or controlled on June 30, 2003, by the division of disability, aging, and rehabilitative services established by IC 12-9-1-1 for use by the blind and visually impaired unit of the rehabilitation services bureau established by IC 12-12-1-1 are transferred to the commission on July 1, 2003.

(e) Contracts and agreements in effect on June 30, 2003, between the blind and visually impaired unit of the rehabilitation services bureau established by IC 12-12-1-1 are binding on the commission to the same extent that the contracts or agreements were binding on the blind and visually impaired unit of the rehabilitation services bureau.

(f) Proceeds received after June 30, 2003, from claims filed with an agency, including claims filed with the federal Social Security Administration, that relate to the provision of services for the blind or visually impaired shall be transferred to the commission from the agency that received the proceeds.

(g) The commission may adopt rules under IC 4-22-2 before July 1, 2003, to implement IC 4-23-28, as added by this act.

(h) This SECTION expires July 1, 2007.

SECTION 14. An emergency is declared for this act.

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